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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BOARD OF TRUSTEES OF THE NORTHERN
CALIFORNIA TILE INDUSTRY WELFARE
TRUST FUND; BOARD OF TRUSTEES OF THE
NORTHERN CALIFORNIA TILE INDUSTRY
PENSION TRUST FUND; BOARD OF TRUSTEES
OF THE NORTHERN CALIFORNIA TILE
INDUSTRY APPRENTICE AND TRAINING
TRUST FUND; BOARD OF TRUSTEES OF THE
NORTHERN CALIFORNIA TILE INDUSTRY
VACATION AND HOLIDAY TRUST FUND; AND
BOARD OF TRUSTEES OF THE NORTHERN
CALIFORNIA TILE INDUSTRY LABOR-
MANAGEMENT COOPERATION COMMITTEE
TRUST FUND,

Plaintiffs,

v.

ALL AMERICAN TILE AND TERRAZZO, INC.,

Defendant.

No. C 12 5660 JSC

**SETTLEMENT AGREEMENT AND
STIPULATION FOR ENTRY OF
JUDGMENT**

1. The plaintiffs alleged in their complaint that defendant failed to pay fringe benefit contributions for the months of June 2010 through September 2012 in a timely fashion such that fringe benefit contributions, liquidated damages, interest, attorneys' fees and costs are due and owing to the plaintiffs for this period, as more fully appears by said complaint. The parties agree that defendant paid \$17,566.87 of the shortage alleged in the complaint on November 21, 2012 and

1 that \$18,822.61 remains due to plaintiffs from defendant on the alleged shortage based upon
2 defendant's reports to plaintiffs. Additionally, defendant owes plaintiffs attorneys' fees and costs
3 of \$2,239.85 incurred in this matter so a total of \$21,062.46 is due from defendant to plaintiffs.

4 2. The plaintiffs and defendant have agreed upon a basis for the adjustment of the
5 matters alleged in the complaint and that a consent decree and judgment will be entered by the
6 plaintiffs, without notice in favor of the plaintiffs, BOARD OF TRUSTEES OF THE
7 NORTHERN CALIFORNIA TILE INDUSTRY HEALTH WELFARE TRUST FUND; BOARD
8 OF TRUSTEES OF THE NORTHERN CALIFORNIA TILE INDUSTRY PENSION TRUST
9 FUND; BOARD OF TRUSTEES OF THE NORTHERN CALIFORNIA TILE INDUSTRY
10 APPRENTICE AND TRAINING TRUST FUND; BOARD OF TRUSTEES OF THE
11 NORTHERN CALIFORNIA TILE INDUSTRY VACATION AND HOLIDAY TRUST FUND;
12 and BOARD OF TRUSTEES OF THE NORTHERN CALIFORNIA TILE INDUSTRY LABOR-
13 MANAGEMENT COOPERATION AND COMMITTEE TRUST FUND, against the defendant,
14 ALL AMERICAN TILE AND TERRAZZO, INC., as set forth below.

15 3. The plaintiffs by their undersigned counsel and the defendant by an authorized
16 individual and its counsel agree that in the event of a default by defendant under any of the terms
17 described below, a consent decree and judgment will be entered by the plaintiffs, without notice in
18 favor of the plaintiffs, Board of Trustees of Northern California Tile Industry Trust Fund; Board of
19 Trustees of the Northern California Tile Industry Pension Trust Fund; Board of Trustees of the
20 Northern California Tile Industry Apprentice and Training Trust Fund; and Board of Trustees of
21 the Northern California Tile Industry Vacation and Holiday Trust Fund; and Board of Trustees of
22 the Northern California Tile Industry Labor-Management Cooperation Committee Trust Fund
23 (herein "Trust Funds") against the defendant All American Tile and Terrazzo, Inc. (hereinafter
24 "Defendant") for the sum of TWENTY-ONE THOUSAND SIXTY-TWO DOLLARS AND
25 FORTY-SIX CENTS (\$21,062.46), plus interest at the rate of 10% per annum from November 21,
26 2012, to be paid as follows:

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1 (a) The parties have agreed that the total judgment will be satisfied by the payment
2 of FOURTEEN THOUSAND DOLLARS (\$14,00.00), due and payable from Defendant to the
3 Trust Funds as follows:

4 (1) One (1) payment of SEVEN THOUSAND DOLLARS (\$7,000.00) upon
5 execution of this Agreement; and

6 (2) Seven (7) payments of ONE THOUSAND DOLLARS (\$1,000.00) each,
7 on or before the 28th of each month, commencing December 28, 2012.

8 (b) There shall be no prepayment interest penalty if Defendant chooses to
9 prepay the total principal and interest outstanding at any time.

10 (c) Defendant shall not be in default of any installment payment if said
11 payment is received within ten (10) days of its due date.

12 (d) All of the aforementioned payments shall be made payable to McCarthy,
13 Johnson & Miller, Trustee Account, and sent to the following address:

14 *Lori A. Nord, Esq.*
15 *McCarthy, Johnson & Miller*
16 *Law Corporation*
595 Market Street, Suite 2200
San Francisco, CA 94105

17 4. If the Defendant defaults in the timely payment of any installment under this
18 Stipulation, the full \$21,062.46 of this judgment, plus interest from November 21, 2012 at the
19 contract rate of 10% per annum, shall immediately fall due less the principal credited from any
20 payments already received and plaintiffs will be enabled to immediately enter and execute on the
21 judgment for said sum.

22 5. Defendant agrees to abide by the terms and conditions of its collective bargaining
23 agreement with BAC Local No. 3 and the Trust Agreements establishing Plaintiff Trust Funds
24 (hereinafter "these agreements"), including remaining current in its future obligations to submit
25 monthly reports with the corresponding fringe benefit contributions to the plaintiffs for the work
26 months of November 2012 through May 2013. Should Defendant violate the terms of any of these
27 agreements through June 30, 2013, it is agreed that Defendant shall be deemed in default of this
28 Stipulation and that plaintiffs may accordingly enter and execute on this judgment immediately. If

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McCARTHY, JOHNSON & MILLER
LAW CORPORATION

Dated: November 29, 2012

By: Lori A. Nord
Lori A. Nord, Attorneys for Plaintiffs

Dated: December 14, 2012



1 such default occurs, the full \$21,062.46 of this judgment, plus interest as set forth above, will
 2 immediately fall due, less credit for any payments credited to principal that have already been
 3 received and plaintiffs will be enabled to immediately enter a judgment and execute on the
 4 judgment for said sum.

5 6. The parties both desire to settle this known report shortage without a further delay
 6 which would be caused by an audit of Defendant's books and records to determine if any
 7 additional, currently unknown, shortage exists. Trust Funds specifically reserve their right to audit
 8 Defendant for this same time period at a future date if they so desire and Defendant agrees that the
 9 settlement of this lawsuit will not act as a bar to plaintiffs requesting an audit in the future. The
 10 parties further stipulate that this settlement does not settle any shortage other than the currently
 11 known shortage based upon the defendant's contribution reports to plaintiffs for the months of June
 12 2010 through October 2012.

13 7. Trust Funds agree that they will not enter a judgment against Defendant until and
 14 unless Defendant defaults under the terms of any provision of this Stipulation for Entry of
 15 Judgment.

16 8. Upon completion of the payments due pursuant to this Stipulation, the Trust Funds
 17 will execute a full Satisfaction of Judgment or Dismissal of this lawsuit, whichever is appropriate.

18 9. Other than the \$2,239.85 in plaintiffs' attorneys fees and costs incurred in this
 19 matter, each party is to bear their respective costs and attorneys' fees incurred in this action unless
 20 Defendant defaults under this agreement in which case Trust Funds will recover all of their
 21 attorney's fees and costs as part of the judgment entered.

23 ALL AMERICAN TILE AND TERRAZZO, INC.

24 Dated: November 28, 2012

25 By: 
 Barbara J. Romero, Vice-President

26 Dated: November 28, 2012

27 WATSON, HOFFE & HASS

28 By: 
 Jeanne Mirante, Attorneys for Defendant